



New Jersey Department of Children and Families Policy Manual

Manual:	OOE	Office of Education	Effective Date: 9-30-2003 rev. 1-22-2013
Volume:	I	Office of Education	
Chapter:	A	Office of Education	
Subchapter:	1	Office of Education	Revised:
Issuance:	44	Safe and Drug Free School Environment	

SUBJECT: Safe and Drug Free School Environment

EFFECTIVE DATE: September 30, 2003

REVISED: January 22, 2013

A. OBJECTIVE

To provide a safe and drug free school environment in Department of Children and Families and Department of Human Services State facility education programs.

B. STANDARDS

All students shall adhere to the code of student conduct established by each Department of Children and Families (DCF) and Department of Human Services (DHS) State facility education program pursuant to N.J.A.C. 6A:16-7.1 and Office of Education (OOE) Policy #33, "Student Conduct".

In adherence with N.J.A.C. 6A:16-6.1 et seq. and this policy, DCF and DHS State facility education programs shall implement the prescribed procedures and shall cooperate with law enforcement authorities in all matters relating to the unlawful possession, distribution and disposition of the following:

- Controlled dangerous substances, including anabolic steroids, as defined in N.J.S.A. 24:21-2 (Attachment 1A), and N.J.S.A. 2C:35-2 (Attachment 1B);
- Drug paraphernalia, as defined in N.J.S.A. 2C:36-1 (Attachment 1C);
- Alcoholic beverages;
- Firearms, as defined in N.J.S.A. 2C:39-1f (Attachment 2); and
- Other deadly weapons, as defined in N.J.S.A. 2C:39-1r (Attachment 2).

As required by N.J.S.A. 18A:17-46, any school staff who witness or who have knowledge of an incident of violence shall report the incident to the ES or designee.

Pursuant to N.J.S.A. 2C:33-19 and N.J.A.C. 6A:16-5.8, students are prohibited, without the express written permission of the Education Supervisor (ES) or the Director, Office of Education, or designee, from bringing or possessing, at any time and regardless of whether school is in session or other persons are present, any remotely activating paging device on any property used for school purposes.

All searches of students and their personal effects and all seizures of students' property shall comply with the standards prescribed by the United States Supreme Court in *New Jersey v. T.L.O.*, 469 U.S. 325(1985), which can be found at the following link: <http://supreme.justia.com/us/469/325/case.html> and the New Jersey School Search Policy Manual, which can be found at www.state.nj.us/lps/dcj/school/. Note: For students residing in State facilities and attending a DCF or DHS State facility education program other than a DCF Regional School, additional, possibly stricter, standards may apply to searches and seizures of students and their possessions.

C. PROCEDURES: GENERAL

1. If an incident occurs which involves law enforcement authorities and/or matters delineated in this policy, an Unusual Incident Report shall be completed and filed in accordance with OOE Policy #29, "Reporting Unusual Incidents", or the DCF or DHS residential facility's policy, as appropriate.
2. Each DCF and DHS State facility education program shall establish/maintain an ongoing relationship with the county prosecutor's office, the local law enforcement authorities and/or the DHS Police, as appropriate for the program.
 - a. The ES shall serve as the liaison to the applicable law enforcement authority.
 - b. The ES and, as feasible, the Regional or OOE Administrator of each DCF and DHS State facility education program and the appropriate representative of a residential program, as applicable, shall meet periodically with the designated law enforcement authorities to discuss the practices of the education and law enforcement agencies regarding the matters addressed in this policy and to define the reciprocal rights and obligations of students, parents, school staff and law enforcement officials.
 - c. The ES and the Regional or OOE Administrator shall review and be familiar with the Uniform State Memorandum of Agreement (MOA) Between Education and Law Enforcement. This resource document can be found at (www.state.nj.us/education/schools/security/regs/agree.pdf).

- d. In the event that a law enforcement authority requests a DCF or DHS State facility education program to enter into any type of written agreement, the agreement shall be approved by the Director of the Office of Education or by the Division Director and/or Chief Executive Officer of a residential program, as appropriate, prior to being signed by either party.
- e. The ES may request assistance/guidance, as needed, from the designated law enforcement authority with relevant matters such as:
 - 1) Planning school safety and security in-service programs;
 - 2) Reviewing scenarios for school safety and security drills;
 - 3) Addressing internet safety, cyber-bullying and gangs;
 - 4) Identifying school safety and security issues and concerns; and
 - 5) Questions concerning searches conducted by school officials.
- 3. This policy shall be made available to students, parents and staff, as follows:
 - a. Upon enrollment, students and parents shall be informed about the key elements of this policy, and they shall be apprised that a copy of this policy may be requested from the school.
 - b. Staff shall be informed that a copy of this policy is available on the DCF portal page and upon request from the school.
 - c. Staff shall receive in-service training concerning the information in this policy.
- 4. In accordance with N.J.S.A. 18A:36-5.1, DCF and DHS State facility education programs shall observe "School Violence Awareness Week" as scheduled by the Department of Education.
 - a. The DCF Office of Education shall provide guidance to the school programs regarding the implementation of School Violence Awareness Week activities.
 - b. The school programs shall involve students and staff, as appropriate, in the activities.

D. PROCEDURES: INTERVIEWING, INTERROGATION OR ARREST OF STUDENT

- 1. When any person, including a law enforcement officer, wants to **interview** or **interrogate** a student on school property during the school day, the ES or

designee shall determine the purpose of the questioning in order to safeguard the student's rights and well-being.

2. When a law enforcement officer wants to **interview** a school student who is considered to be a victim or a witness who is not the target of an investigation, the law enforcement officer is not required to involve the parent/guardian in order to interview the student. However, the ES or designee shall immediately attempt to inform the parent/guardian and/or the appropriate residential staff, as applicable, and shall request that the interview be delayed until the parent/guardian/ residential staff can be present.
 - a. If the officer refuses to wait to interview the student until the parent arrives or if the parent/guardian/residential staff is unavailable and the officer refuses to delay the interview, the ES or designee shall remain with the student during the questioning.
 - b. A staff person present during a police interview of a student may eventually be required to testify during a court proceeding.
3. Whenever possible, and especially in the case of young children under the age of fourteen years, a student suspected of a crime shall be **interrogated** by a law enforcement officer in the presence of his/her parent or legal guardian to help assure that any waiver of rights by the juvenile is the product of free will. As stated in a case (State v. Presha) decided by the New Jersey Supreme Court, a law enforcement official must use his/her best efforts to locate a parent or legal guardian before beginning the interrogation, regardless of the juvenile's age. A juvenile questioned by law enforcement officers after he/she has been taken into custody or otherwise deprived of his/her freedom of action in any significant way (custodial interrogation) about matters that might tend to incriminate him/her must be given the Miranda warning prior to the beginning of the questioning. A Miranda warning (Miranda v. Arizona, 384 U.S. 436) advises people that they have the right not to answer questions, that any statement made may be used as evidence against them, that they have a right to have an attorney present before answering any questions, and that an attorney will be appointed to represent them if they cannot afford to hire one.
 - a. If a law enforcement officer suspects a student, who is a minor, of committing a crime and wants to **interrogate** that student on school property, the ES or designee shall immediately attempt to inform the parent/guardian and/or the appropriate residential staff, as applicable.
 - b. The law enforcement officer may initiate the contact to the parent/guardian for the purpose of conducting an interrogation of a minor student who is the target of an investigation.

- c. The interrogation should not be conducted until the parent/guardian or the student's legal representative is present, in accordance with Article 10 of the MOA.
 - d. In the event the officer refuses to wait to interrogate the student until the parent/guardian/legal representative arrives or if the parent/guardian/legal representative is unavailable, the ES or designee shall not serve as a witness to a Miranda warning and shall not be present during the interrogation.
4. A law enforcement officer executing a lawful search, seizure or arrest may enter school property to carry out his/her duties.
- a. When such an event involves a student, the ES or designee shall make every reasonable effort to notify the parent/guardian/residential staff and the appropriate Regional Administrator, as applicable.
 - b. The ES or designee shall be informed when a student is going to be taken from the school by a law enforcement officer.
 - c. A law enforcement officer is permitted to conduct a lawful search, acting on his/her own authority, in accordance with the rules and procedures governing law enforcement searches.

E. PROCEDURES: STUDENT OR STAFF POSSESSION AND/OR DISTRIBUTION OF A CONTROLLED DANGEROUS SUBSTANCE OR DRUG PARAPHERNALIA

- 1. Any staff person who has reason to believe that a student or staff member has unlawfully possessed or in any way has been involved in the distribution of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia, on or within 1,000 feet of the outermost boundary of the school property, shall report the information as soon as possible to the ES or designee.
 - a. The ES or designee shall immediately report all known information concerning the matter, including the identity of the student or staff member involved (with the exception of E.1.b. below), to the appropriate law enforcement authority; the appropriate Regional Administrator, as applicable; and the appropriate residential facility staff, as applicable.
 - b. The ES or designee shall not, however, disclose the identity of any student or staff member who has voluntarily sought and participated in an appropriate treatment or counseling program for alcohol or other drug abuse problem provided the student or staff member is not reasonably believed to be involved or implicated in drug distribution activities.

- 1) For the purposes of this section, an admission by a student or staff member in response to questioning initiated by the ES or instructional staff member or following the discovery of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia by the ES or instructional staff member shall not constitute a voluntary, self-initiated request for counseling and treatment.
- c. The ES or designee shall notify the student's parent/guardian/residential staff.
 - d. The ES or designee shall also notify the student's probation or parole officer, as appropriate.
2. Any school employee who seizes or discovers any alcohol or other drug or item believed to be a controlled dangerous substance, including anabolic steroids, or drug paraphernalia, shall immediately notify and turn over the alcohol or other drug or item to the ES or designee.
 - a. The ES or designee shall safeguard the alcohol or other drug or paraphernalia against further use or destruction by securing it in a locked cabinet, closet or drawer until such time as the alcohol or other drug or paraphernalia can be turned over to the appropriate law enforcement authority.
 - b. The ES or designee shall immediately notify the appropriate law enforcement authority; the appropriate Regional Administrator, as applicable; and the appropriate residential facility staff, as applicable, and convey all information concerning the manner in which the alcohol or other drug or paraphernalia was discovered or seized, including (with the exception of E.2.c. below):
 - 1) The identity of all persons who had custody of the substance or paraphernalia following its discovery or seizure; and
 - 2) The identity of any student or staff member believed to have been in possession of the substance or paraphernalia.
 - c. The ES or designee shall not disclose the identity of any student or staff member who voluntarily and on his or her own initiative turned over the alcohol or other drug or paraphernalia to a school employee, provided that there is reason to believe that the student or staff member was involved with the alcohol or other drug or paraphernalia for the purpose of personal use, not distribution activities, and further provided that the student or staff member agrees to participate in an appropriate treatment or counseling program.
 - 1) An admission by a student or staff member in response to questioning initiated by the ES or instructional staff member, or following the discovery of a controlled dangerous substance, including anabolic

steroids or drug paraphernalia by the ES or other staff member shall not constitute a voluntary, self-initiated request for counseling and treatment.

F. PROCEDURES: FIREARMS AND OTHER DEADLY WEAPONS

1. Any staff member who has a reason to believe that any of the following situations has occurred involving a firearm, as defined in N.J.S.A. 2C:39-1(f) (Attachment 2), or other deadly weapon, whether or not it is enumerated in N.J.S.A. 2C:39-1(r) (Attachment 2), shall report the information to the ES or designee as soon as possible:
 - A firearm or other deadly weapon has unlawfully been brought onto school property;
 - Any student or other person is in unlawful possession of a firearm or other deadly weapon, whether on or off school property;
 - Any student or other person has committed an offense with or while in possession of a firearm, whether or not the offense was committed on school property or during school operating hours; or
 - Any student or other person has committed an assault with a weapon, other than a firearm, upon an employee or another student of a DCF or DHS State facility education program while on any school property, on a school bus, or at a school-sponsored function.
 - a. The ES or designee shall immediately report all known information concerning the matter, including the identity of the student or other person involved, to the appropriate law enforcement authority; the appropriate Regional Administrator, as applicable; and the appropriate residential facility staff, as applicable.
 - b. The Regional Administrator shall notify the Director, Office of Education, or designee.
2. In addition to F.1. above, for a **student** who is found knowingly in possession of a firearm; who commits a crime while in possession of a firearm; or who commits an assault with a weapon other than a firearm upon any employee or another student of a DCF or DHS State facility education program while on any school property, on a school bus, or at a school-sponsored function, the following shall also apply:
 - a. As early in the process as possible, the ES or designee shall determine whether the involved student is a special education student, or a student who the school has reason to know should be a special education student, which requires the application of additional procedural protections.

- b. The ES or designee shall notify the parent/guardian about the incident; about the law enforcement notification; about the police taking custody of the student, if it occurs; and about any removal action by the school, if applicable.
 - c. The ES or designee shall notify the student's probation or parole officer, as appropriate.
 - d. As necessary, the ES or designee shall isolate the student and place the student under the supervision of school staff until such time as the parent/guardian/ residential staff or law enforcement official takes custody of the student.
 - e. As soon as possible after the incident has occurred and has been investigated which should include interviewing the student, as feasible, the ES or designee; the Regional or OOE Administrator, representing the Director of the Office of Education; the appropriate residential facility staff, as applicable; the student's probation or parole officer, as applicable; the Child Study Team Case Manager for a student with a disability; and any other persons the ES deems appropriate, such as the student's parent/guardian or a representative from the student's district of residence, shall meet to determine the consequences for a student in regards to removal from the school's program and to decide the appropriate mechanism for addressing the student's educational needs and for providing the student's due process rights.
- N.J.S.A. 18A:37-8 stipulates that any student who is convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or found knowingly in possession of a firearm on any school property, on a school bus, or at a school-sponsored function shall be immediately removed from the school's regular education program pending a hearing before the local board of education to remove the student from the regular education program for a period of not less than one calendar year subject to modification on a case-by-case basis by the chief school administrator.
 - N.J.A.C. 6A:16-5.6 states that any student, other than a student with a disability, who commits an assault upon a school employee or another student with a weapon, other than a firearm, on any school property, on a school bus, or at a school-sponsored function shall be immediately removed from the school's general education program for a period not exceeding one calendar year, subject to modification on a case-by-case basis by the chief school administrator.
- 1) A day student's district of residence shall be immediately notified about a student's removal from a DCF or DHS State facility education program so

the student's due process rights and educational needs can be addressed, as feasible.

- 2) A student living in a State residential facility who has been removed from a DCF or DHS State facility education program shall be provided home instruction while he/she is living in the State residential facility. As applicable, the Director/Chief Executive Officer of the residential program and the Director of the Office of Education or designee shall make the final determination as to whether a student is prepared to return to the school program or whether the student shall continue to receive home instruction based on the following criteria:
 - a) The nature and severity of the offense;
 - b) The removal decision;
 - c) The results of any relevant testing, assessments or evaluation of the student; and
 - d) The recommendation of the ES of the home instruction program.
3. Whenever a staff member seizes or comes upon any firearm, ammunition for a firearm, or a dangerous weapon, the ES or designee shall be immediately notified.
 - a. The ES or designee shall immediately inform the appropriate law enforcement authority, the appropriate Regional Administrator, as applicable; and the appropriate residential facility staff, as applicable. The Regional Administrator shall notify the Director, Office of Education, or designee.
 - b. The ES or designee shall secure the firearm or dangerous weapon pending the response by the appropriate law enforcement authority to retrieve and take custody of the firearm or weapon. Any school employee having custody of a firearm or dangerous weapon shall take reasonable precautions to prevent the theft, destruction or unlawful use of the firearm or dangerous weapon by any person.
 - c. If a firearm is discovered by a school staff person in a desk, locker or other location, the weapon should not be picked up or handled. The area around the weapon should be cleared of all people, and the weapon should be guarded to make certain no one takes or uses it until the police arrive on the scene.
 - d. If a staff person actually seizes or takes possession of a firearm or dangerous weapon, the weapon should be turned over to the ES or designee who shall secure the weapon in a locked cabinet, closet or drawer.

- e. **No staff person shall ever attempt to wrest a weapon away from a student**, since this exposes employees, students and bystanders to an unnecessary risk of injury.
 - 1) The correct response in such confrontations shall be to call the police.
 - 2) Teachers and other school staff are not required by law or regulation to take a gun or other dangerous weapon away from a student.
- 4. School staff shall remain vigilant concerning new and evolving weapons that are readily concealable and easily disguised.
 - a. Examples of such weapons are knives, other sharp objects which can be disguised as belt buckles or other seemingly innocuous items or dangerous items which may be concealed in shoes.
 - b. Upon the discovery or the suspicion of the presence of such weapons in school, the ES or designee shall be immediately notified.
 - c. The ES may consult with the appropriate law enforcement authority for information and advice about such weapons, including their prevalence in certain areas.

G. PROCEDURES: ASSAULT BY STUDENT NOT INVOLVING WEAPON OR FIREARM

- 1. When a student, other than a student with a disability, commits an assault, not involving the use of a weapon or firearm, upon an employee of a DCF or DHS State facility education program, the student shall be immediately removed from school consistent with the due process procedures regarding suspensions outlined in OOE Policy #33, "Student Conduct".
- 2. A student with a disability who commits such an assault shall be removed from school consistent with N.J.A.C. 6A:14 and OOE Policy # 33.
- 3. The ES or designee shall notify the student's parent/guardian/residential staff of the removal action and of the student's due process rights.
- 4. The ES or designee shall isolate the student and place the student under the supervision of school staff until such time as the parent/guardian/residential staff or appropriate agency takes custody of the student.
- 5. The ES or designee shall report the incident to the appropriate Regional Administrator, as applicable, who in turn shall notify the Director, OOE.

6. As appropriate, the ES or designee shall notify the student's probation or parole officer.
7. If the discontinuation of a DCF Regional School student is being contemplated, the ES shall adhere to the termination procedures in OOE Policy # 36.

H. PROCEDURES: REMOTELY ACTIVATING PAGING DEVICE

1. Without the written permission of the ES or the Director, OOE, or designee, students are prohibited from bringing or possessing any remotely activating paging device on any school grounds, including on a school bus or at a school-sponsored function, at any time and regardless of whether school is in session or other persons are present.
2. School authorities shall not grant permission for a student to bring or possess a remotely activating paging device on any school grounds, including a school bus or at a school-sponsored function unless and until a student has established, to the satisfaction of the school authorities, a reasonable basis for the possession of the device.
3. The ES or designee shall immediately notify the appropriate Regional Administrator, as applicable; the appropriate law enforcement authority; the student's parent/guardian/residential staff; and the student's probation or parole officer, as appropriate, of a violation of this section.

I. PROCEDURES: COMPUTERS, THE INTERNET AND TECHNOLOGY

1. Any school employee who witnesses or suspects technology devices and services such as cell phones, digital cameras, digital recorders, personal digital assistants* (PDAs), lap-top computers, desk-top computers, email or the Internet are being used for harmful or illegal purposes shall immediately report the matter to the ES or designee.

* A personal digital assistant (PDA) is a [handheld computer](#), also known as a palmtop computer. Newer PDAs also have both color screens and audio capabilities, enabling them to be used as [mobile phones](#) ([smartphones](#)), [web browsers](#), or [portable media players](#). Many PDAs can access the [Internet](#), [intranets](#) or [extranets](#) via [Wi-Fi](#) or [Wireless Wide-Area Networks](#) (WWANs).

2. Harmful and illegal uses and purposes, which are occurring on school grounds or are being initiated from homes or other locations, include, but are not limited to, the following activities:
 - a. Unauthorized access to school networks;

- b. Harassment, intimidation, threats and/or bullying via electronic media and “blogging”;
 - c. Use of technology to violate the law or facilitate other crimes; and
 - d. Violation of school rules for the possession of electronic devices, such as cell phones, pagers, PDA’s and cameras, on school grounds.
- 3. The ES or designee shall notify the appropriate Regional Administrator, as applicable, and the OOE Technology Unit about any incident involving the improper, harmful or illicit use of the school’s electronic equipment or computer network.
 - 4. When the incident is or is suspected to be an illegal activity, the ES or designee shall notify law enforcement authorities.
 - 5. Cell phones, PDA’s or any other technology devices, which were used or were suspected to have been used in any type of criminal activity, shall be confiscated at the school whenever possible, held in a secure location and turned over to the law enforcement authorities.

J. PROCEDURES: VIOLENT THREATS

- 1. Whenever any staff person, in the course of his or her employment, develops reason to believe that a student or any person in the school has threatened, is planning, or otherwise intends to cause death, serious bodily injury, or significant bodily injury to another person on or off school grounds (under circumstances in which a reasonable person would believe that the student genuinely intends at some time in the future to commit the violent act or carry out the threat), he or she shall report that information as soon as possible to the ES or designee.
- 2. The ES or designee shall immediately notify the appropriate Regional Administrator, as applicable; the law enforcement authorities; and the student’s parent/guardian/residential staff.
- 3. School officials shall fully cooperate with law enforcement authorities by supplying all known information relevant to the threat, including historical or background information concerning the person’s behavior or state of mind.

K. PROCEDURES: CRIME INVOLVING SEXUAL PENETRATION OR CRIMINAL SEXUAL CONDUCT

1. Whenever any staff person, in the course of his or her employment, develops reason to believe that a crime involving sexual penetration or criminal sexual conduct has been committed on school grounds, including on a school bus or at a school-sponsored function, or committed by or against a student during school operating hours or during school-related functions or activities, he or she shall report that information as soon as possible to the ES or designee.
2. The ES or designee shall immediately notify the appropriate Regional Administrator, as applicable; the law enforcement authorities; and the student's parent/guardian/residential staff.

L. PROCEDURES: HATE CRIME

1. Staff persons, in the course of their employment, shall notify the ES or designee as soon as possible when they develop reason to believe that:
 - a. A hate crime has been committed or is about to be committed on school grounds, including on a school bus or at a school-sponsored function;
 - b. A hate crime has been or is about to be committed by a student, whether on or off school property including on a school bus or at a school-sponsored function, and whether or not the offense was or is to be committed during school operating hours; or
 - c. A student enrolled in the school has been or is about to become the victim of a hate crime, whether committed on or off school grounds, including on a school bus or at a school-sponsored function, or during school operating hours.
2. The ES or designee shall immediately notify the appropriate Regional Administrator, as applicable; the law enforcement authorities; the bias investigation officer for the county prosecutor's office; and the student's parent/guardian/ residential staff.

M. PROCEDURES: INDIVIDUALIZED OR SUSPICION-BASED SEARCH OF STUDENT AND HIS/HER POSSESSIONS

1. An "individualized or suspicion-based search" of a student and his/her possessions refers to a search that is based upon a suspicion that a particular, identified student has committed an offense or has violated school rules, and that evidence of the offense or infraction would be found in a specific location, such as the student's handbag or knapsack or in the locker assigned to that particular student. An individualized search is distinct from a "sweep" or "suspicionless" search.

2. The ES or designee may initiate **an individualized search of a student's person or belongings** if the search is necessary to protect students and other members of the school community and the school official has **reasonable grounds** for suspecting that the search will reveal evidence that the student has violated or is violating either the law or the rules of the school.
 - a. All individualized searches of students and their personal effects by school officials and all seizures of students' property shall comply with the standards prescribed by the U.S. Supreme Court in *New Jersey v. T.L.O.*, 469 U.S. 325 (1985) which can be found at <http://supreme.justia.com/us/469/325/case.html> and with the principles and guidelines stipulated in the New Jersey School Search Policy Manual which can be found at www.state.nj.us/lps/dcj/school/. This manual is intended to help school staff find the delicate balance between a school's duty to maintain an orderly, safe, well-disciplined school environment which is conducive to learning and the rights that students enjoy to be free from **unreasonable** searches and seizures guaranteed by the Fourth Amendment to the United States Constitution.
 - 1) The "School Search Checklists" (Attachment 3) is a companion reference guide to the N.J. School Search Policy Manual. The checklists restate some of the most important search and seizure rules and are designed to help school authorities identify and record appropriate facts that would justify a search of a student and his/her locker and possessions.
 - 2) These checklists do not list all of the pertinent facts and observations that could conceivably occur during an investigation into suspected criminal activity or the violation of school rules.
 - 3) School administrators shall carefully document all of the facts that were known before conducting a search, as well as any information learned during the course of conducting a search. The timing and sequence of events is critical.
 - b. A search entails "peeking", "poking" or "prying" by a teacher, ES or other school official into a private area or an enclosed opaque container, such as a locker, desk, purse, backpack, folder, book or article of clothing. The act of opening a locker or container to inspect its contents constitutes a search, as does the act of reading material hidden in a book, diary, calendar, letter or note. Ordering a student to open a locker or container, or to empty his/her pockets, also constitutes a search.
3. Only the ES or designee shall make the decision to initiate or conduct a search of a student or his/her property.

- a. If no apparent emergency justifies the immediate use of reasonable force by school personnel, the ES or designee shall assess the potential danger of conducting a particular search and **shall not hesitate to involve the appropriate law enforcement authorities, as necessary.** Although N.J.S.A. 18A:6-1 authorizes school employees to use as much force as is reasonable and necessary to obtain possession of weapons or other dangerous objects that are on the person or within the control of a student, an attempt by school officials to engage in a physical struggle to gain control of a weapon may expose the employee, the student, and innocent bystanders to an unnecessary risk of injury.
 - b. When making a decision whether to conduct a search, the ES or designee shall consider the totality of the known circumstances, including the type of item being sought, the student's present state of mind and possible reaction to the encounter, and his or her reputation for violence and for resisting authority.
4. To initiate a lawful search, the ES or designee must have **reasonable grounds** to believe that:
- a. a law or school rule has been or is being broken;
 - 1) The ES or designee shall base his or her judgment upon objective facts, which taken as a whole under all circumstances, would lead a reasonable person to conclude that a law or school rule has been broken.
 - 2) The ES or designee shall never rely on unsubstantiated rumor.
 - b. a particular student(s) has committed the violation or infraction;
 - c. the suspected violation or infraction is of a kind for which there may be physical evidence; and
 - d. the sought-after evidence would be found in a particular place associated with the student(s) suspected of committing the violation or infraction.
5. Not only shall the intended search be justified at its inception, but the actual search must be reasonable in its scope, duration and intensity.
- a. The search shall not be broader in scope, nor longer in duration, than is reasonably necessary to locate the specific object(s) being sought.
 - b. The student shall be given an opportunity to tell where the item being sought is located.

- c. The school official conducting the search shall minimize the intrusiveness of the search and shall complete the search as quickly and easily as possible.
 - d. The school official conducting the search shall make sure that there is a logical and reasonable connection between the object being sought and the places and containers to be searched. For example, the container may be too small or otherwise ill-suited to conceal the item being sought.
 - e. The school official shall search a student's possessions while in the company of that student.
 - f. A school official shall avoid damaging property being searched.
 - g. A search should end upon finding the item sought, unless other evidence is discovered which suggests it is reasonable to search further.
6. **School staff shall not conduct any strip search or body cavity search of a student under any circumstances pursuant to N.J.S.A. 18A:37-6.1.**
- a. A strip search means the removal or rearrangement of clothing for the purpose of visual inspection of the student's undergarments or nude body.
 - b. The term, strip search, does not include any removal or rearrangement of clothing reasonably required to render medical treatment or assistance or the removal of articles of outer-clothing such as coats, ties, belts or shoelaces (N.J.S.A. 2A:161 [Attachment A-3a](#)).
7. School officials shall be especially cautious before undertaking a search of a student's person, taking into consideration the age and the gender of the student and the nature of the suspected infraction. Generally, the physical search of a person shall take place only when the object of the search poses a direct threat to students, such as weapons and illicit drugs, and when the information relied upon to conduct the search suggests that the item(s) will most likely be found in the clothing the student is wearing.
- a. The student shall be searched in a location which is private and away from the other students.
 - b. At least one other school official shall be present to assist and serve as a witness.
 - c. The school official conducting the search shall clearly identify the specific object(s) being sought and shall provide the student an opportunity to surrender it before beginning the search unless to do so would create an unreasonable risk.

- d. The student shall be separated from any purse/bag/backpack that he/she is carrying and shall be required to remove outer garments so that these type of items can be searched without touching the student.
- e. Any physical touching of the student's person shall only be used as a means of last resort and shall be done by a staff member of the same sex as the student.
- f. Any touching of the student's actual person shall begin in the place most likely to conceal the sought-after object.
- g. A limited "patdown" of the student's clothing shall be conducted before reaching into a pocket or waistband to determine whether there is anything present that might be the sought-after object.
 - 1) While conducting a frisk or patdown of the student's clothing, school officials should not slide or otherwise manipulate an object in a pocket unless the object reasonably could be the item being sought, or unless it is immediately apparent after the initial touching that the item is a weapon or other contraband that you did not expect to find.
 - 2) When the patdown reveals something that could be sought-after evidence, the student shall be required to empty his/her pockets, **unless it would be dangerous to do so** in which case the ES or designee shall notify the appropriate law enforcement authorities.
- h. The search shall be immediately stopped upon finding and securing the sought-after item unless there are reasonable grounds to believe that the student is carrying additional evidence that would justify a further search of the person.
- i. If at anytime, the student refuses to comply or resists any physical touching, the ES or designee shall discontinue the search and notify the law enforcement authorities.
 - 1) Before calling the police, the ES or designee may advise the student that the police will be called and that they will be provided with the information that suggests that the student has committed an offense and is carrying evidence of that offense.
 - 2) Confronting the student with this warning may result in the student agreeing to remove and turn over the sought-after evidence.
- 8. If a search is conducted either by or at the request of a law enforcement officer, the search must be based on "probable cause" to believe that evidence of a crime will be discovered. This is a higher standard of proof than the "reasonable grounds" or "reasonable suspicion" standard used to justify a search conducted

by school officials acting independently and on their own authority to maintain order and discipline.

- a. The ES or designee may request that the law enforcement authorities assume responsibility for conducting any search or seizure.
 - b. School staff shall permit law enforcement authorities, upon their arrival, to assume responsibility for conducting any search or seizure.
9. School staff shall not impede any law enforcement officer engaged in a lawful search, seizure or arrest whether pursuant to a warrant or otherwise.
10. The **search of a school locker** is permitted where reasonable suspicion exists that the locker contains evidence that a law or school rule has been broken.
- a. Lockers may also be searched when odors, smoke, fire, or other threats to student health, welfare or safety appear to be originating in the locker.
 - b. When school officials do open a locker or container, they generally should conduct a visual inspection for the sought-after item(s) before rummaging through and removing personal possessions that clearly are not the sought-after evidence or are not immediately recognized to be contraband or other evidence.

N. PROCEDURES: SUSPICIONLESS OR GENERALIZED SEARCH/ INSPECTION OF STUDENT AND HIS/HER POSSESSIONS

1. A “suspicionless or generalized search” refers to searches of lockers or student possessions that are not limited to a single or specific location and that are not based upon a particularized suspicion that a specific, identified student has committed an offense or infraction of the school rules, or that evidence of any such offense or infraction would be found in a particular location associated with the student who is suspected of wrongdoing. Rather, a sweep search involves subjecting all or some number of lockers or other places to opening and inspection, pursuant to a neutral plan (e.g. by random selection), based upon a generalized belief that drugs, weapons or other contraband are being routinely brought on to school property by an unspecified number of students whose exact identities are not known. This type of suspicionless search also includes the act of subjecting the exterior surface or air surrounding unopened lockers, or other objects containing student possessions, to examination by a drug or weapons detection canine.
- a. Suspicionless or generalized searches shall be applied equally and objectively to all students as described in this section of the policy.

- b. A separate written neutral plan is required for each type of suspicionless or generalized search in order to protect against arbitrary discretion, and the ES or designee shall ensure the even-handed application of the plan to all students.
 - c. When conducting these searches, the school staff shall try to minimize the degree of intrusion to the greatest extent possible.
 - d. Under no circumstance shall any suspicionless or generalized search be used by any school employee as a ruse or subterfuge to search or target an individual student.
 - e. Suspicionless searches are not designed to facilitate the taking into custody or prosecution of student offenders, but rather serve to prevent students from bringing or keeping dangerous weapons, drugs, alcohol, and other prohibited items on school grounds.
 - f. One purpose of these searches is to send a clear message to students that certain types of behavior will not be tolerated.
2. Suspicionless or generalized searches of students shall comply with the principles and guidelines stipulated in the New Jersey School Search Policy Manual which can be found at www.state.nj.us/lps/dcj/school/.
- a. This manual is intended to help school staff find the delicate balance between a school's duty to maintain an orderly, safe, well-disciplined school environment which is conducive to learning and the rights that students enjoy to be free from unreasonable searches and seizures guaranteed by the Fourth Amendment to the United States Constitution.
 - b. Additionally, the "School Search Checklists" (Attachment 3) is a companion reference guide to the N.J. School Search Policy Manual. The checklists restate some of the most important search and seizure rules and are designed to help school authorities identify and record appropriate facts that would justify a search of a student and his/her locker and possessions.
3. In accordance with N.J.S.A. 18A:36-19.2, the ES, with the appropriate administrative approval, may design and implement a neutral, routine program to conduct suspicionless inspections of lockers or other storage facilities provided for use by students, as long as the **locker inspection program** includes, at a minimum, the following components and features:
- a. The ES shall document specific findings which detail the nature, scope and magnitude of the problem(s) which is to be addressed by the locker inspection program.
 - 1) The written justification for the locker inspection program should emphasize that the goal of the program is to prevent and discourage all

forms of conduct that are detrimental to students' health, safety, and welfare, such as students bringing or keeping dangerous weapons, drugs, alcohol, tobacco, or other prohibited or unsafe objects on school property.

- b. The locker inspection program shall be conducted in accordance with a written neutral plan which is based upon objective criteria established in advance of any inspection.
 - 1) The neutral plan shall explain in detail how individual lockers or groups of lockers will be selected for inspection and shall be designed so that all lockers in the school building are eventually subject to inspection.
 - 2) A plan which uses a random selection technique or, as feasible, requires all lockers to be opened during a routine search eliminates the discretion of school officials in selecting students who will be subject to a search and reduces the stigma attached to a search.
 - 3) Inspections performed pursuant to a suspicionless locker inspection program shall not be based on an individualized suspicion that weapons, drugs, or other prohibited items would be found in a particular locker.
 - c. The ES or designee shall provide written notification to students, their parents/guardians, and staff about the nature and purpose of the inspection program prior to the initial implementation of the program, when new students are enrolled in the program, and at the beginning of each school year.
 - 1) The ES or designee shall utilize all available means to make certain all students understand that:
 - a) The school retains a master key;
 - b) Lockers assigned to students will be subject to opening and inspection on a regular, periodic basis; and
 - c) Any closed containers kept in lockers that are selected for inspection may be opened and their contents examined.
 - 2) The locker inspection plan shall not extend to knapsacks, handbags, or other personal possessions that are being carried by students.
 - d. All searches conducted pursuant to a locker inspection program shall be executed by the ES or designee in a manner that minimizes the degree of intrusiveness. The ES or designee shall be very familiar with the neutral plan and with the procedures for dealing with suspected firearms and other dangerous weapons discovered during a locker inspection.
4. All inspections of lockers, desks or other objects or personal property on the grounds of a DCF or DHS State facility education program, involving the use of

law enforcement drug or explosive detection canines, may only be undertaken with the express permission of the County Prosecutor or the Director of the Division of Criminal Justice in the New Jersey Department of Law and Public Safety and the Director, OOE and/or the appropriate Division Director/Chief Executive Officer.

- a. The exceptions to the requirement for approval from the County Prosecutor are an emergency response to a credible bomb threat and the use of drug detection dogs in a demonstration at school.
 - b. Students and their parents/legal guardians shall be given written notice of the intention and authority of school officials to invite drug-detection dogs to conduct suspicionless inspections on school property.
 - c. The canine operation shall be conducted in accordance with a written plan of operation which shall minimize the degree of intrusion and inconvenience to students and staff.
 - d. The use of law enforcement drug-detection dogs to sniff the exterior surface of a locker or container does not constitute a search and does not require reasonable suspicion; however, the act of opening a locker or container in response to a dog's alert does constitute a search.
 - e. When a law enforcement officer or canine is involved, it is strongly recommended that a search warrant be obtained before opening a locker or any other container or object in response to a dog's positive alert.
 - f. The use of dogs to sniff individuals is considered a search and requires that school authorities have reasonable suspicion to conduct such a search.
 - g. The use of a privately-owned drug detection canine must receive prior approval from the law enforcement authority and the County Prosecutor.
 - h. If any drug detection canine search, whether conducted by State officials or a private company, indicates the possible presence of a controlled dangerous substance, any substance, paraphernalia or other evidence seized shall be turned over to law enforcement authorities or the County Prosecutor's Office.
5. When the administration of a DCF or DHS State facility education program makes the decision to utilize a metal detector (another type of suspicionless search) to screen students for the possession of weapons in order to provide a safe and orderly school environment, the ES or designee shall design and implement a neutral **metal detector search program** which adheres to the following guidelines:

- a. The ES shall document the specific findings and the rationale which support the need for a metal detector search program in a particular school.
- b. To ensure that the metal detector searches are conducted uniformly and equitably, the ES or designee shall develop and implement a written, neutral plan and procedures that:
 - 1) are based on objective criteria established in advance by the school;
 - 2) utilize the device in a manner which does not allow the operator of the metal detector to exercise any discretion in deciding whom to search, unless there is an instance of reasonable suspicion or probable cause, and which avoids the appearance that a particular student or group of students is being favored or targeted (e.g. Every student should be subject to the search process or randomly selected such as every third student.);
 - 3) maximize the detection and deterrent value by regularly searching significant numbers of students;
 - 4) minimize student inconvenience and interference with the educational process; and
 - 5) assure that patterns are not established which would allow students to avoid searches.
- c. Staff, students and parents/guardians shall be notified in writing that a metal detector will be used to conduct searches on a random basis before the first utilization of the metal detector, when a new student or staff person enters the program, and at the beginning of each school year.
 - 1) The notification should reflect the information outlined in the written neutral plan and, at a minimum, include the type of detector(s) being used, an explanation of the procedures, and the circumstances under which the procedures will be used.
 - 2) If visitors will be subject to this form of inspection, a written notice informing them shall also be conspicuously posted at the entrance of the school.
- d. A sign shall be posted at the entrance to the metal detector as an additional notification to students about the metal detector search program and to explain the importance of detectors in maintaining a safe and comfortable learning environment.
- e. Staff who will be operating the metal detector shall be trained to properly administer searches.

- f. When students are required to pass through a stationary metal detector, the following procedures shall apply:
- 1) Before walking through the stationary metal detector, each student shall be asked to remove all metal objects from his or her person and possessions and to place them on the table.
 - 2) If the detector is activated, the student shall again be asked to remove all metal objects from his or her person and possessions and to walk through the detector.
 - 3) If the stationary metal detector is activated, the student shall again be asked to remove all metal objects for visual inspection.
 - 4) The hand-held detector shall then be used to conduct a more focused inspection to verify and isolate the presence of metal that was detected by the stationary detector.
 - a) The hand-held detector shall be used to separately scan the student, beginning at his or her feet and working upwards, and the student's possessions such as a book bag.
 - b) The technique of using the hand-held detector to separately scan the student's person and his/her belongings allows subsequent searches to be limited to the area which activated the detector's alarm.
 - 5) If the hand-held detector is activated, once more request the student to indicate what metal object may be causing the alert and give the student the opportunity to remove the object for visual inspection.
 - 6) If the student refuses or no explanation for the activation of the detector is evident:
 - a) The student may be asked to proceed to a private area for a limited pat down or frisk of the student's outer clothing at the precise area of the student's clothing where the detector is alerted to the presence of metal. The search shall be done by a school employee of the same sex as the student to be searched and shall be conducted in accordance with this policy.
 - b) If a student refuses to remove all metal objects from his or her person and possessions without giving a satisfactory explanation, the ES or designee may notify the student's parent/guardian and/or probation/parole officer. If, following such notification, the student

again refuses to remove all metal objects from his or her person and possession, the student may be required to leave school property.

- c) If no apparent emergency justifies the immediate use of reasonable force by school personnel in the search procedures, the appropriate law enforcement authorities may be called to the school to monitor the search.
6. A **“point of entry/exit inspection”** is a type of suspicionless search that requires students to open their book bags, knapsacks, pocketbooks or other containers for a cursory inspection of the contents prior to entering or exiting the school building or areas within the school building such as the library. The following procedures shall be implemented if the school plans to employ this type of suspicionless inspection:
- a. The ES must provide a written justification with specific findings to explain why it is necessary to utilize this particular security technique.
 - 1) For example, the school could cite particular incidents involving students and drugs or weapons or refer to a developing pattern of security problems.
 - 2) Point of entry/exit inspections can serve as a successful means to discourage students and others from bringing drugs and other non-metallic contraband that could not be revealed by a metal detector into the school.
 - b. Although this type of inspection program may be conducted in conjunction with a suspicionless search utilizing a metal detector, a separate, written neutral plan must be designed and implemented for the point of entry/exit inspection program.
 - 1) The neutral plan shall be based on objective criteria established in advance by school officials.
 - 2) The neutral plan shall be designed to assure that students’ reasonable expectation to privacy is not subject to the discretion of school personnel.
 - 3) The neutral plan shall be designed to reduce any “stigma” associated with the use of the point of entry/exit inspection since individuals are not being singled-out based on any particular suspicion.
 - 4) The point of entry/exit inspection shall be applied equally, in a non-discretionary fashion, to all students who bring book bags, knapsacks, pocketbooks and other containers to school.

- 5) When conducting this type of inspection, school staff shall try to minimize the degree of intrusion to the greatest extent possible.
- c. Written advance notice of when and under what circumstances the students will be required to submit to this form of inspection shall be provided to students and their parents at the time of each student's admission to the school.
- d. A prominently displayed written notice of the "point of entry/exit inspection" shall be posted in the area(s) in the school where the inspections will be conducted and shall describe the procedures and to whom they shall apply, including visitors if so determined by the ES.

O. PROCEDURES: PLAIN VIEW DISCOVERY

1. In the course of his/her duties, a school staff member may happen to find an item which is or may be evidence of an infraction of a school rule or of a crime.
 - a. This discovery of such an item may occur as a result of a suspicionless/generalized inspection or a suspicion-based search; during the course of routine interactions with students; or while patrolling the hallways.
 - b. This discovery shall be regarded as a "plain view" observation which shall enable the school official(s) to seize the item(s), provided that at the moment the items come into view, the school officials are legitimately present and have not already violated a student's Fourth Amendment rights, and it is immediately apparent to the school officials that they are observing evidence of a crime or infraction of a school rule.
2. Further information and details about the "plain view" concept are described in the New Jersey School Search Policy Manual which can be found at www.state.nj.us/lps/dcj/school/.

P. PROCEDURES: UNDERCOVER SCHOOL OPERATIONS

1. The term "undercover school operation," means a planned operation undertaken by a law enforcement agency wherein a law enforcement officer(s) is placed in a school community and poses as a member of the school community for the purpose of identifying and eventually apprehending persons engaged in the illegal distribution of controlled dangerous substances or the unlawful use, possession, or distribution of firearms or dangerous weapons.

2. The Director, Office of Education, and the Chief Executive Officer of a State residential facility, as appropriate, shall approve any undercover school operation to be conducted by law enforcement authorities in accordance with the MOA.
3. The Director, Office of Education, or designee and the ES shall cooperate with law enforcement authorities in the planning and conducting of undercover school operations.
4. All information concerning requests to undertake any undercover school operation; information supplied by law enforcement authorities to justify or explain the need for a proposed undercover school operation; and all other information concerning an ongoing undercover school operation, including the identity of any undercover officer placed in a school, shall be kept strictly confidential by the ES, the Director, Office of Education, and any other involved persons.
5. The ES, the Director, Office of Education, and any other involved persons shall only divulge information concerning any undercover school operation with the prior express approval of the county prosecutor or designee.
6. In the event that the Director, Office of Education, the ES or any other involved person who may have been informed regarding the existence of an undercover operation subsequently learns of any information which suggests that the true identity of the undercover officer has been revealed, that any person has questioned the identity or status of the undercover officer as a bona fide member of the school community, or that the integrity of the undercover school operation has been in any other way compromised, such information shall be immediately communicated to the county prosecutor or designee.

Q. PROCEDURES: CONFIDENTIALITY OF STUDENT INVOLVEMENT IN ALCOHOL OR OTHER DRUG ABUSE INTERVENTION AND TREATMENT PROGRAMS

1. All information concerning a student's involvement in a school intervention or treatment program for alcohol or other drug abuse shall be kept strictly **confidential**, according to the requirements of N.J.S.A. 18A:40 [Attachment A-7.1](#) and 7.2 and N.J.A.C. 6A:16-3.2.
2. The information presented in this policy shall not be construed in any way to authorize or require the transmittal of any information or records which are in the possession of an alcohol or other drug abuse counseling or treatment program.
3. The ES or designee shall not disclose to law enforcement officials or to any person other than a member of the school-based substance abuse program that a student has received or is receiving services through a school-based alcohol and other drug abuse program.

4. The ES or designee shall not disclose any information, including the student's identity or information about illegal activity, where such information was learned in the course of or as a result of services provided through a school-based alcohol and other drug abuse program.
5. Information about illegal activity which was learned by any school employee outside of the school-based alcohol and other drug abuse program may be disclosed.

R. PROCEDURES: INFORMATION RELATED TO JUVENILE JUSTICE PROCEEDINGS

1. Access to information related to juvenile justice proceedings shall be protected according to the requirements of N.J.S.A. 2A:4[Attachment A-60](#).
2. The social, medical, psychological, legal and other records of the court and probation division and the records of law enforcement agencies, pertaining to juveniles charged as a delinquent or found to be part of a juvenile-family crisis, shall be strictly safeguarded from public inspection.
 - a. In addition to the persons and entities stipulated in N.J.S.A. 2A:4[Attachment A-60](#), such records may be made available to the Department of Human Services or the Department of Children and Families, if providing care or custody of the juvenile, and any institution or facility to which the juvenile is currently committed or in which the juvenile is placed.
 - b. A person, except as provided by law, who knowingly discloses, publishes, receives, or makes use of information concerning a particular juvenile derived from these records, shall, upon conviction thereof, be guilty of a disorderly persons offense.
3. At the time of charge, adjudication or disposition, information as to the identity of a juvenile charged with an offense, the offense charged, the adjudication and disposition shall, upon request, be disclosed, on a confidential basis, to the ES of the school where the juvenile is enrolled for use by the ES and such members of the staff of the school as the ES deems appropriate for maintaining order, safety or discipline in the school or for planning programs relevant to the juvenile's educational and social development, provided that no record of such information shall be maintained except as authorized by a regulation of the Department of Education.
4. A law enforcement or prosecuting agency shall, at the time of a charge, adjudication or disposition, advise the ES of the school where the juvenile is

enrolled of the identity of the juvenile charged, the offense charged, the adjudication and the disposition if:

- a. The offense occurred on school property or a school bus, occurred at a school function or was committed against an employee or official of the school;
- b. The juvenile was taken into custody, whether or not on school grounds, as a result of information or evidence provided by school officials; or
- c. The offense, if committed by an adult, would constitute a crime, and the offense:
 - 1) resulted in death or serious bodily injury or involved an attempt or conspiracy to cause death or serious bodily injury;
 - 2) involved the unlawful use or possession of a firearm or other weapon;
 - 3) involved the unlawful manufacture, distribution or possession with intent to distribute a controlled dangerous substance or controlled substance analog;
 - 4) was committed by a juvenile who acted with a purpose to intimidate an individual or group of individuals because of race, color, religion, gender, disability, sexual orientation or ethnicity; or
 - 5) would be a crime of the first or second degree.

Information provided to the ES pursuant to this section shall be treated as confidential but may be made available to such members of the staff and faculty of the school as the ES deems appropriate for maintaining order, safety or discipline in the school or for planning programs relevant to the juvenile's educational and social development. No record of such information shall be maintained except as authorized by a regulation of the Department of Education.

5. A law enforcement or prosecuting agency may verbally notify the ES with information identifying one or more juveniles who are under investigation or have been taken into custody for commission of any act that would constitute an offense if committed by an adult when the law enforcement or prosecuting agency determines that the information may be useful to the ES in maintaining order, safety or discipline in the school or in planning programs relevant to the juvenile's educational and social development.
 - a. Information provided to the ES pursuant to this section shall be treated as confidential but may be made available to such members of the staff and faculty of the school as the ES deems appropriate for maintaining order,

safety or discipline in the school or for planning programs relevant to the juvenile's educational and social development.

- b. Information provided pursuant to this section shall not be maintained.
- 6. The ES or designee shall take all appropriate measures when a law enforcement or prosecuting agency provides the school with specific information concerning the identity of a victim to protect that victim from further attack; to enforce a restraining order or condition of probation or pre-trial release that indicates a juvenile offender should have no contact with the victim; or to prevent retaliation or an escalation of violence.

Tracy Nowlin
Acting Director

Attachments

- A- 1A: N.J.S.A. 24:21-2
- A- 1B: N.J.S.A. 2C:35-2
- A- 1C: N.J.S.A. 2C:36-1
- A- 2: N.J.S.A. 2C:39-1